

VILLAGE OF ANTIOCH
PLANNING AND ZONING BOARD
THE BOARD ROOM, VILLAGE HALL
874 MAIN STREET, ANTIOCH, ILLINOIS

April 13, 2006

CALL TO ORDER:

The meeting of the Antioch Planning and Zoning Board was called to order by Chairman Burdick at 7:30 p.m. in the Board Room at Village Hall, 874 Main Street, Antioch, Illinois 60002.

ROLL CALL:

Roll call indicated the following members were present: Ipsen, Cole, Kaiser, Keller and Baba. Member LaReese and Attorney Magna were absent this evening. Also present were Chairman Burdick and Attorney Matt DeMartini.

Member Keller stated changes for February 9 minutes as follows:

- On page 1, last paragraph, first line--"showed" should be "shown".
- On page 2, 13th paragraph, starting with "Mr. Ulatowski", line 2 should say "and the stub on road nine collector".
- On page 3, the public comment section--It should say "read", not "reads".
- On page 5, 8th paragraph, line 3 the word "to" should be inserted after the words "It wasn't the intent not".
- On page 8, first line "there" should be "their".
- On page 13, 2nd full paragraph, last line, "preformed" should be "performed".
- On page 13, 3rd paragraph from bottom, last line, "no" should be "not".
- On page 15, 4th full paragraph, "keeping them from" should be deleted on line 3.
- On page 16, 7th paragraph, "lukiman" should be "Lubkeman".
- On page 18, 2nd to last paragraph, there should be a comma after "Member Keller agreed".
- On page 27, 12th paragraph, "aided" should be "ADID".

MOTION:

Member Ipsen moved to approve the minutes with corrections. Member Keller seconded the motion.

ROLL CALL:

YES: 4 Ipsen, Kaiser, Keller, Baba
NO: 0
RECUSE: 1 Cole
ABSENT: 1 LaReese

ANNOUNCEMENTS:

The Elgin Community College Zoning & Planning Seminar is Saturday, April 22nd.

The Annual Meeting Schedule for Fiscal Year ending 4/30/07.

MOTION:

Member Keller moved to approve the annual meeting schedule. Member Kaiser seconded the motion.

ROLL CALL:

YES: 5 Ipsen, Cole, Kaiser, Keller, Baba
NO: 0
RECUSE: 0
ABSENT: 1 LaReese

NEW BUSINESS:

PZB 06-02; Request for rear yard variation, 1702 Centennial Drive, Lot 249 in Clublands Phase 3; PIN 02-22-207-021; petitioner; Marylaine Carlson.

PUBLIC COMMENT:

The recording secretary reads the public hearing notice and administered the oath to the public.

DISCUSSION:

Scott Gardner, Law Offices of Gantar & DeMartini, mentioned that he was representing Ms. Carlson in the petition for the variance to the rear setback for her home in Clublands of Neumann Homes. Ms. Carlson is a resident of Antioch for 15 years and recently relocated from her home in Antioch to Clublands. She came to his office to get help putting the paperwork together to get a deck built on the rear of her home, he further mentioned.

He goes on to say that he took one look at the survey and realized that she had a problem. The lot that Neumann Homes built on was significantly smaller then the required residential lot for the Village. The total area of her lot is only 9,600 sq ft and the minimum requirement in the Village is 10,200.

First off, he stated, Neumann built on a lot smaller then allowed. Secondly, they built her home with a raised sliding glass door built within 2' of the rear set back line which is 25' for all decks in the Village. Ms. Carlson has proposed a 16' deck built in her yard which would be the 9' setback from the rear lot line. She is willing to work with the Board to modify her plans down to 10' if she is approved to have the variance in the rear setback line. The notices were sent out and the deck is consistent with the neighborhood and will be consistent with the normal use and increase the value of the property without any detrimental effect to the neighbors or the community, he further stated.

Chairman Burdick asked if there were any houses next to her or behind her at the present time.

Ms. Carlson replied that there is one house on the corner and houses on the side.

Chairman Burdick asked if they have decks.

Ms. Carlson responded no, the house on the corner has a patio.

Member Ipsen mentioned that the neighbors would not be able to construct a deck.

Ms. Carlson explained that they are all new houses and no-one has built anything yet besides the house on the corner which has a patio.

Member Ipsen asked if a concession has been made by the sales office due to the size of the lot.

Ms. Carlson replied no.

Member Cole, asked on page 3 of the request for zoning variation under item 7 it states the home backs up to open space, from taking a road trip out there, she asked where that open space was.

Ms. Carlson explained that it hadn't been built on yet.

Member Cole replied that it is an empty lot but someone will eventually be behind her.

Ms. Carlson answered sure.

Member Baba asked if she was the first owner of the home.

Ms. Carlson responded yes.

Member Baba asked if she saw the plat of survey before purchasing the home.

Ms. Carlson replied no, that she saw it the day of the closing.

Member Baba asked if she owned a home before.

Ms. Carlson answered yes.

Member Baba asked if she knew about setbacks and easements.

Ms. Carlson responded that she was on ten acres and didn't know any of it.

Member Baba mentioned that he also made a trip out to the home and when he looked at the patio door, the builder put a pad and a step, which doesn't appear to be a hardship to come out the patio door onto a pad down one step and onto the grass.

Ms. Carlson replied that it is not a hardship at the present time but is looking towards the future. Her family has bad knees and they are looking to live there ten years or more. You are correct at this present day there would not be, she further replied.

Member Baba asked if she said anything to Neumann Homes about placing a deck on the back.

Ms. Carlson responded that it never even crossed her mind.

Member Baba asked if they ever gave an indication that a deck would be a nice thing to have in the neighborhood.

Ms. Carlson mentioned that the sales office made it seem that they could put anything in the back they wanted.

Member Baba asked if she was aware of any covenants in the Clublands community of what you can and cannot have.

Ms. Carlson responded no they told her that when she wanted to do something she would have to go through the management place and put in the application and be approved.

Member Baba asked if she did that.

Ms. Carlson answered yes that she was approved for a deck.

Member Baba asked if she was given the covenants of the community at closing so she was aware of what could and could not be done.

Ms. Carlson replied yes.

Attorney DeMartini asked if Neumann Homes tried to sell any upgrades for back porches at the Dream Center.

Ms. Carlson responded no.

Chairman Burdick mentioned that there is a problem. All these brand new subdivisions are building where a deck could not be built. Every place out there is going to come in for a variance. The door that's sitting out there would make someone think they could put a deck out there and yet there are restrictions from the Village. We are going to see many of these and the direction to go is unclear, he further mentioned.

Mr. Dustin Nilsen, Senior Planner, stated that a 25' setback from the rear lot line to any non-permitted obstructions is required. A deck is a permitted obstruction within the rear yard setback; therefore, the variation is needed. This is not the only home in this situation, any ranch on a lot this small or smaller has no opportunity for a rear deck. The footprints of the ranch models are larger, the two-story homes have a tucked under garage, and the floor area is on less building footprint than the ranches. The ranches all encroach or nearly encroach into the setback. Since this application has been received there have been three neighbors to express their concern who are in similar situations. He further stated.

Chairman Burdick asked if any of the six lots could conform.

Mr. Nilsen explained that 248 and 250 are two-story homes so they do have an opportunity to go into the back. 231 and 232, if they were ranches, would be an identical situation. They have a 30' setback, approximately 40' of building which leaves about 25' to 28' left, he further explained.

Member Baba asked if landscaping was to be done what the alternatives would be. What would be appropriate for a homeowner to do for entertaining besides a deck, he asked.

Mr. Nilsen replied that a limited amount of pavers would be allowed, but no structure, nothing above ground.

Member Baba asked if a brick patio could be done.

Mr. Nilsen responded unit pavers.

Member Baba asked if a concrete pad could be done.

Mr. Nilsen answered no.

Member Baba stated that there is an opportunity to do a type of landscaping and if the petitioner is concerned medically about knees some sort of a walkway, steps or ramping could be done.

Mr. Nilsen replied that steps below 4' or a stoop are permitted.

Member Baba reiterated the something can be done to enhance the property with landscaping but without a structure.

Mr. Silhan, Director of Planning, Zoning & Building, clarified that a concrete pad would be allowed.

Member Baba stated some sort of rough aggregate.

Mr. Silhan explained something that is at grade; whether its paver bricks which are actually a concrete product or poured concrete.

Member Baba stated that there is a way to enhance the property without encroaching on any ordinance.

Attorney DeMartini asked if the at grade quality would preclude a raised brick 2' to 3' high off the ground patio.

Mr. Silhan explained that 18", knee height, has always been used as a standard. If it's 18" or lower that is an at grade situation. If it's greater than that it becomes an elevated structure.

Chairman Burdick asked how high the stoop is right now.

Member Baba replied that it is two steps, two risers, so it must be 16" or so.

Mr. Nilsen mentioned that there is a 7" maximum rise.

Member Baba clarified to the sill of the patio door slider.

Member Baba asked if there was an unusual larger easement than anybody else has.

Mr. Nilsen responded that is a standardized 10' but there are some situations where there is 20' out there but that doesn't apply here.

Chairman Burdick stated he'd like a recommendation from the Village staff.

Mr. Silhan mentioned that the Attorney for the petitioner indicated that the lot is smaller than the 10,200 sq ft standard, the standard in the PUD ordinance was 6,600 sq ft when Clublands came into the Village.

He further mentioned that he has nothing against the petitioner and he feels sorry for the situation that she and other residents are in but is very concerned about approving a subdivision for a developer based upon the testimony we have then arriving at a situation where people are saying but wait I can't build the deck I want. In many respects that's not the petitioner's fault but he believes that it is not the Village's fault either. He doesn't

think the sales office is always crystal clear on what the perimeters are, based on that he recommended to deny the petition, he further mentioned.

Mr. Silhan stated it may be more appropriate if the current petitioner and other persons who are in similar situations come in with an amendment for a PUD or contact Neumann Homes and suggest that they come back through the process and ask for a PUD amendment.

Member Cole asked if the 25' setback is part of the PUD and all those ordinances.

Mr. Silhan explained that the 25' setback is within the ordinance R1 zoning and it was modified as part of the PUD.

Chairman Burdick stated that if the developer is trying to promote something that can't be done there should be some type of recourse.

Member Baba explained that it is the responsibility of the homeowner, the buyer, to know what they are getting into. It is certain that the builder never put in writing that the homeowner could do something like this. Certainly a sales technique is to promote the world but it is probably verbal, he further explained.

He stated that regardless of a subdivision or a block of people coming before us, we have a standard. We went through hours of testimony to set these things up and prior to a motion it is tough accepting any kind of variance for this because this is the first one from an individual homeowner, he further stated.

Mr. Silhan replied that Ms. Carlson is the first homeowner to apply from this development.

Member Baba reiterated that there are alternatives that can be done to enhance the property.

Chairman Burdick asked if a pool would be restrictive on the setback.

Mr. Silhan responded an above ground pool would be.

Chairman Burdick stated that if they tell you that you can put a pool out there, that is wrong, they are giving false information.

Mr. Silhan explained that in general terms he has wrestled with the issue of how an ordinance can respond to this. He asked if there should be a minimum lot depth indicated in the ordinance but is not convinced this would solve the issue.

Jerry Coleman of 884 Forestview Way stated that the Village allowed Neumann to build ranches on lots that would not allow anything beyond the home. He explained that his lot is a trapezoid shape with a huge front yard; his garage is right on the 30' setback from the front. The patio door is a look-out rear yard. The 5' grade or a 5' rise with a 3' wide egress going out about 6' and turning in and going down to the ground. He mentioned that he saw the layout but not the buildable setback lines or the plat until closing.

He further mentioned that he can build a 7' deck and stay within the code or build a 22' off of the bedroom but would not want a deck for entertaining then have people going through his bedroom. He stated that he is speaking in favor of the petitioner. Why would the Village ever allow them to build a ranch in the development that would not support being able to build anything in the backyard other than a patio, he asked.

It's more the developer's fault than anyone else's but he was offered a 12' x 12' deck but turned it down. The price was so exorbitant but maybe that's because they knew they couldn't build it, he mentioned.

Chairman Burdick mentioned that it seems the developers do not care what you do with the property after you move in. They try to put a house on a lot that doesn't fit, somebody's wrong here and that's the developer, he stated.

Mr. Coleman stated that he thinks it's the developer but also thinks that it's the Village's responsibility to look after approving a PUD and allowing certain types of footprints. While it's the developer's job to sell homes and hope he's going to be honest with the homeowner that's not necessarily the case therefore it falls back on the Village to look after the rights of the homeowner's who haven't bought there yet and don't know about the issues with Neumann Homes, he further stated.

Chairman Burdick asked if a developer ever came in and said anything about a deck when they wanted to develop for a PUD.

Mr. Silhan replied that he's never heard a developer talk about decks or any other amenities that may or may not go in the backyard.

Mr. Coleman stated it is the homeowner's responsibility but there are probably no more than ten to twelve ranches in Clublands currently and a ranch should not be allowed

Member Baba asked what the checks and balances of the Village are when a developer has sold a customer a deck that cannot fit and encroaches on the setbacks.

Mr. Silhan responded a permit.

Member Baba stated so there is a stop on that and it's not going to be done. It still has to go back to the homeowner, the homeowner has to know what they're getting into, what they're buying and what can and cannot be done.

Mr. Donald Carroll of 1677 Forestview explained that he has a ranch with a 120' lot. Neumann did not mention the 25' setback line. There is a 4' lookout so the backdoor is 4' to 5' above grade. There is a 40" step-out which is kind of like a deck, with a stairway going down which is currently beyond the 25' building setback. They did offer a deck but he declined. There is a forest preserve property in the back with a wetland area. All of the homes on the side are two stories so they have the extra space where the ranches do not. There is a special circumstance in his case, he mentioned, a 94 year old woman that cannot walk down stairs to a patio or a deck.

Chairman Burdick explained that developers building or setting up a lot that can be built on but not giving options is happening quite often and we're going to have to go through this with all of the people. They are telling you that you can put a deck out there but they're telling you wrong so there should be some recourse, he further explained.

Attorney DeMartini stated if they have made promises then there could be some type of recourse.

Chairman Burdick mentioned that everyone of the ranches will have someone coming in wanting to put up a deck so it is a real problem for the Village and for the people.

Member Ipsen clarified that it was called a deck but actually it is a porch. Does the staircase actually encroach on the 25' setback right now, he asked.

Mr. Carroll replied yes.

Mr. Silhan explained that section 105G-3-E of the zoning ordinance refers to various obstructions that are allowed within the required yards and steps not over 4' in height are one of those. We do have situations in Clublands and in other developments where because of the position of the back stoop or the deck there are some steps that are somewhat into that setback area.

Mr. Gardner stated that there are ten to fifteen ranch houses in that development and hopes the Board would consider restricting the building of houses on those lots. He knows the homeowners have a responsibility to investigate before they make a large purchase but many times they have already sold their home the morning of the closing, they are in another closing sitting at a table and are handed the survey and have to turn over a check and there is no turning back. It's an unfortunate situation but the reality is the survey is not given to the individual until closing, he further stated.

He mentioned that individuals that are buying ranch houses in Neumann Homes are buying those houses because they are not able to walk up and down the stairs. It is restricting the intended use of their house and backyards when their neighbors with two-story homes are able to put a deck.

Ms. Carlson stated that she would settle for a 10' deck which would leave a 15' setback in her yard. There is a 10' utility easement which would still leave a 5' buffer between the utility easement and the rear of the deck. Esthetically the patio is a nice idea but she would really like the deck, she further stated.

Chairman Burdick explained that more and more people want decks and that is a problem that they are going to have in the future.

MOTION:

Member Baba moved to deny PZB 06-02 due to other alternatives and no hardship shown. Member Cole seconded the motion.

ROLL CALL:

YES:	5	Ipsen, Cole, Kaiser, Keller, Baba
NO:	0	
RECUSE:	0	
ABSENT:	1	LaReese

NEW BUSINESS: PZB 06-03; Proposed Zoning Text Amendments to Sections 10-14-4, 10-14-5, and 10-14-6, which relate to amendments, special uses, and variations; petitioner: R. Silhan, PZ&B Director.

PUBLIC COMMENT: The recording secretary reads the public hearing notice and administered the oath to the public.

DISCUSSION: Mr. Silhan mentioned that he distributed a memo dated March 16 which is the proposal to amend various sections of the zoning ordinance. The purpose and intent of the amendments are to take certain select portions of the Rules of Procedure which the Board approved at the February 9 meeting and interject them into the actual zoning ordinance text. There are some basic items in terms of petitioner's responsibilities that do belong in the zoning ordinance so the language has been taken pretty much verbatim from the Rules of Procedure and kind of reorganized in a different manner and presented here, he further mentioned.

There are two other revisions that were included and those are in red where 25 copies of documents are being requested instead of 20 when it comes to amendments and special uses and the reason for that is the consultant engineers request five copies.

MOTION: Member Ipsen moved to approve PZB 06-03. Member Kaiser seconded the motion.

ROLL CALL:

YES:	5	Ipsen, Cole, Kaiser, Keller, Baba
NO:	0	
RECUSE:	0	
ABSENT:	1	LaReese

Chairman Burdick mentioned that everyone received a new zoning map.

Member Ipsen asked that the ordinances be put into spiral form.

Mr. Silhan replied okay.

MOTION: Member Ipsen moved to adjourn at 8:40 p.m. The motion was seconded by Member Keller.

Motion Carried

Respectfully Submitted,

Katherine A. Gallagher
Permits Coordinator